

APPEAL NO. 040287
FILED MARCH 30, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on January 9, 2004. With respect to the issue before him, the hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the sixth quarter. In her appeal, the claimant essentially argues that the hearing officer's determinations that she did not satisfy the good faith requirement and that she is not entitled to SIBs for the sixth quarter are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The parties stipulated that the claimant sustained a compensable injury on _____; that she reached maximum medical improvement on December 18, 2000, with an impairment rating of 28%; that she did not commute her impairment income benefits; that the sixth quarter ran from October 28, 2003, to January 26, 2004, with a corresponding qualifying period of July 16 to October 14, 2003; that the claimant had no earning in the relevant qualifying period; and that the claimant did not seek employment in the qualifying period for the sixth quarter. Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102) set out the statutory and administrative rule requirements for SIBs. At issue in this case is whether the claimant met the good faith job search requirement of Section 408.142(a)(4) by showing that she had a total inability to work during the qualifying period for the sixth quarter. Rule 130.102(d)(4) provides that an injured employee has made a good faith effort to obtain employment commensurate with the employee's ability to work if the employee has been unable to perform any type of work in any capacity, has provided a narrative from a doctor which specifically explains how the injury causes a total inability to work, and no other records show that the injured employee is able to return to work.

The hearing officer did not err in determining that the claimant did not satisfy the good faith requirement of Rule 130.102(d)(4) by demonstrating that she had no ability to work in the relevant qualifying period. The hearing officer was not persuaded that the evidence was sufficient to satisfy the requirements of Rule 130.102(d)(4). Specifically, the hearing officer determined that there was not a narrative that specifically explained how the claimant's injury caused a total inability to work in the qualifying period. Nothing in our review of the record reveals that the hearing officer's determination in that regard is so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust. As such, no sound basis exists for us to disturb the hearing officer's good faith determination, or the determination that the claimant is not entitled to SIBs for the sixth quarter, on appeal. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

The hearing officer's decision and order are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL FIRE INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET
DALLAS, TEXAS 75201.**

Elaine M. Chaney
Appeals Judge

CONCUR:

Margaret L. Turner
Appeals Judge

Edward Vilano
Appeals Judge